UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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HORRELL BENNETT and NICHOLAS JONES,

Plaintiffs,

-against-

CITY OF NEW YORK, HAMEED ARMANI, Individually, ELVISA BEKTESEVIC, Individually, TYLER MARSHALL, Individually, HENRY DAVERIN, Individually, MARK KOSAREK, Individually, SERGIO VARGAS, Individually, and JOHN and JANE DOE 1 through 10, Individually (the names John and Jane Doe being fictitious, as the true names are presently unknown),

Defendants.

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COMPLAINT

Docket No.

Jury Trial Demanded

Plaintiffs HORRELL BENNETT and NICHOLAS JONES, by their attorneys, Brett H. Klein, Esq., PLLC, complaining of the defendants, respectfully allege as follows:

Preliminary Statement

1. Plaintiffs bring this action for compensatory damages, punitive damages and attorneys' fees pursuant to 42 U.S.C. §§ 1981, 1983, and 1988 for violations of their civil rights, as said rights are secured by said statutes and the Constitution of the United States. Plaintiffs also assert supplemental state law claims.

JURISDICTION

2. This action is brought pursuant to 42 U.S.C. §§ 1981, 1983 and 1988, and the Fourth and Fourteenth Amendments to the United States Constitution. Plaintiffs assert supplemental state law claims pursuant to common law and the New York State Constitution.

3. Jurisdiction is found upon 28 U.S.C. §§ 1331, 1343 and 1367.

VENUE

4. Venue is properly laid in the Eastern District of New York under 28 U.S.C. § 1391(b), in that this is the District in which the claim arose.

JURY DEMAND

5. Plaintiffs respectfully demand a trial by jury of all issues in this matter pursuant to Fed. R. Civ. P. 38 (b).

PARTIES

6. Plaintiff HORRELL BENNETT is a thirty-five year old African American man residing in Brooklyn, New York.

7. Plaintiff NICHOLAS JONES is a twenty-three year old African American man residing in Queens, New York.

8. Defendant CITY OF NEW YORK was and is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York.

9. Defendant CITY OF NEW YORK maintains the New York City Police Department (hereinafter referred to as "NYPD"), a duly authorized public authority and/or police department, authorized to perform all functions of a police department as per the applicable sections of the aforementioned municipal corporation, CITY OF NEW YORK.

10. That at all times hereinafter mentioned, the individually named defendants, HAMEED ARMANI, ELVISA BEKTESEVIC, TYLER MARSHALL, HENRY DAVERIN, MARK KOSAREK, SERGIO VARGAS, and JOHN and JANE DOE 1 through 10, were duly sworn police officers of said department and were acting under the supervision of said department and according to their official duties.

11. That at all times hereinafter mentioned the defendants, either personally or

through their employees, were acting under color of state law and/or in compliance with the official rules, regulations, laws, statutes, customs, usages and/or practices of the State of New York and/or the City of New York.

12. Each and all of the acts of the defendants alleged herein were done by said defendants while acting within the scope of their employment by defendant CITY OF NEW YORK.

FACTS

13. On June 28, 2014, beginning at approximately 9:00 p.m. in front of 668 Hendrix Street, Brooklyn, New York, plaintiffs HORRELL BENNETT and NICHOLAS JONES were lawfully present when they were subjected to excessive force and needlessly arrested by, or otherwise in the presence of, defendant NYPD officers, including without limitation, defendants HAMEED ARMANI, ELVISA BEKTESEVIC, TYLER MARSHALL, HENRY DAVERIN, MARK KOSAREK, and SERGIO VARGAS.

14. Plaintiffs were present at the aforementioned location cleaning up after a permitted block party.

15. While plaintiff BENNETT was cleaning and otherwise not engaged in any unlawful activity, a NYPD officer believed to hold the rank of sergeant approached BENNETT and questioned him about two lawfully parked motorcycles.

16. When plaintiff BENNETT informed the officer that the motorcycles belonged to him, the sergeant asked BENNETT to move the motorcycles.

17. Plaintiff BENNETT explained that he could not move them because he had previously consumed alcohol.

18. The sergeant, along with other defendant officers, falsely arrested BENNETT.

19. During the false arrest, plaintiff BENNETT was grabbed in a choke hold, struck with fists, thrown to the floor, and further struck in the face, neck, and back, and kicked in the back, by defendant officers.

20. Plaintiff BENNETT was then kneed in the left side and handcuffed.

21. Sometime after plaintiff BENNETT was arrested, defendant officers approached plaintiff JONES, at which time approximately three defendant officers participated in arresting JONES despite lacking probable cause to do so.

22. The defendant officers threw JONES to the ground and placed handcuffs on his wrists.

23. Defendant officers thereafter imprisoned plaintiffs in a police vehicle, and then transported them to the 75th police precinct stationhouse.

24. As a result of the defendant officers' actions, plaintiffs HORRELL BENNETT and NICHOLAS JONES suffered needless physical harm and emotional distress.

25. The defendant officers caused HORRELL BENNETT and NICHOLAS JONES to be imprisoned until June 29, 2014, when plaintiffs were arraigned on baseless charges filed in Kings County Criminal Court under docket numbers 2014KN048130 and 2014KN048131, respectively; said charges having been filed based on false allegations sworn to by defendant ELVISA BEKTESEVIC. The defendants initiated said prosecution with malice, and otherwise caused said prosecution to be commenced against plaintiffs for the purpose of obtaining a collateral objective outside the legitimate ends of the legal process, to wit: to avoid disciplinary action for the above described acts of brutality and misconduct.

26. The defendant officers created and manufactured false evidence against plaintiffs and used same against them in said legal proceedings. Specifically, defendant ELVISA

BEKTESEVIC falsely informed the Kings County District Attorney's Office that plaintiffs were acting disorderly and that they purportedly resisted arrest.

27. On December 26, 2014, all of the false charges filed against plaintiffs HORRELL BENNETT and NICHOLAS JONES were adjourned in contemplation of dismissal and subsequently dismissed and sealed.

28. Defendants HAMEED ARMANI and HENRY DAVERIN held the rank of sergeant and participated in, oversaw, and otherwise sanctioned the unlawful conduct described herein.

29. Defendants HAMEED ARMANI, ELVISA BEKTESEVIC, TYLER MARSHALL, HENRY DAVERIN, MARK KOSAREK, SERGIO VARGAS and JOHN and JANE DOE 1 through 10 participated in or were present or otherwise aware of the incident and yet failed to intervene in the illegal conduct described herein despite a meaningful opportunity to do so.

30. All of the above occurred as a direct result of the unconstitutional policies, customs or practices of the City of New York, including, without limitation, the inadequate screening, hiring, retaining, training and supervising its employees; and pursuant to customs or practices of falsely arresting individuals, employing excessive force, falsification, lax investigations of police misconduct, and covering up abuse by fellow officers.

31. The aforesaid event is not an isolated incident. Defendant CITY OF NEW YORK is aware from lawsuits, notices of claims, complaints field with the NYPD's Internal Affairs Bureau, and the CITY OF NEW YORK'S Civilian Complaint Review Board, and extensive media coverage that many NYPD officers, including the defendants, are insufficiently trained regarding the use of force, engage in a practice of falsification, and engage in cover-ups of police

abuse.

32. For instance, in another civil rights action filed in this court involving false allegations by NYPD officers, Judge Jack B. Weinstein pronounced:

> Informal inquiry by the court and among judges of this court, as well as knowledge of cases in other federal and state courts, has revealed anecdotal evidence of repeated, widespread falsification by arresting police officers of the New York City Police Department. . . . [T]here is some evidence of an attitude among officers that is sufficiently widespread to constitute a custom or policy by the city approving illegal conduct of the kind now charged. *Colon v. City of New York, et. al.*, 2009 WL 4263362, *2 (E.D.N.Y. 2009).

33. Defendant CITY OF NEW YORK is further aware that such improper training has often resulted in a deprivation of civil rights. Despite such notice, defendant CITY OF NEW YORK has failed to take corrective action. This failure caused the officers in the present case to violate the plaintiffs' civil rights.

34. Moreover, upon information and belief, defendant CITY OF NEW YORK was aware, prior to the incident, that the individual defendants lacked the objectivity, temperament, maturity, discretion, and disposition to be employed as police officers. Despite such notice, defendant CITY of NEW YORK has retained these officers, and failed to adequately train and supervise them.

35. All of the aforementioned acts of defendants, their agents, servants and employees were carried out under the color of state law.

36. All of the aforementioned acts deprived plaintiffs HORRELL BENNETT and NICHOLAS JONES, members of a racial minority, of the rights, privileges and immunities guaranteed to citizens of the United States by the Fourth and Fourteenth Amendments to the Constitution of the United States of America, and in violation of 42 U.S.C. §§ 1981 and 1983.

37. The acts complained of were carried out by the aforementioned individual

defendants in their capacities as police officers, with the entire actual and/or apparent authority attendant thereto, and with the intent to discriminate on the basis of race.

38. The acts complained of were carried out by the aforementioned individual defendants in their capacities as police officers, pursuant to the customs, usages, practices, procedures, and the rules of the CITY OF NEW YORK and the New York City Police Department, all under the supervision of ranking officers of said department.

39. Defendants, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

40. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES sustained, *inter alia*, physical injuries, emotional distress, and deprivation of their liberty and their constitutional rights.

AS AND FOR A FIRST CAUSE OF ACTION
(False Arrest/Unlawful Imprisonment under 42 U.S.C. § 1983 against the Individually Named Defendants)

41. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "40" with the same force and effect as if fully set forth herein.

42. Defendants arrested plaintiffs HORRELL BENNETT and NICHOLAS JONES without probable cause, causing them to be detained against their will for an extended period of time and subjected to physical restraints.

43. Defendants caused plaintiffs HORRELL BENNETT and NICHOLAS JONES to be falsely arrested and unlawfully imprisoned.

44. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further

entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A SECOND CAUSE OF ACTION
(Excessive Force under 42 U.S.C. § 1983 against the Individually Named Defendants)

45. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "44" with the same force and effect as if fully set forth herein.

46. The level of force employed by defendants was excessive, objectively unreasonable and otherwise in violation of plaintiffs HORRELL BENNETT and NICHOLAS JONES'S constitutional rights.

47. As a result of the aforementioned conduct of defendants, plaintiffs HORRELL BENNETT and NICHOLAS JONES were subjected to excessive force and sustained physical injuries.

48. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A THIRD CAUSE OF ACTION
(Violation of Right to Fair Trial under 42 U.S.C. § 1983 against the Individually Named Defendants)

49. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "48" with the same force and effect as if fully set forth herein.

50. Defendants created false evidence against plaintiffs HORRELL BENNETT and NICHOLAS JONES.

51. Defendants utilized this false evidence against plaintiffs HORRELL BENNETT

and NICHOLAS JONES in legal proceedings.

52. As a result of defendants' creation and use of false evidence, plaintiffs HORRELL BENNETT and NICHOLAS JONES suffered a violation of their constitutional rights to a fair trial, as guaranteed by the United States Constitution.

53. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorney's fees, costs and disbursements of this action.

AS AND FOR A FOURTH CAUSE OF ACTION
(Malicious Abuse of Process under 42 U.S.C. § 1983 against Defendant Elvisa Bektesevic)

54. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "53" with the same force and effect as if fully set forth herein.

55. Defendants maliciously issued criminal process against plaintiffs HORRELL BENNETT and NICHOLAS JONES by causing them to appear in Kings County Criminal Court.

56. Defendants caused plaintiffs HORRELL BENNETT and NICHOLAS JONES to appear in order to obtain a collateral objective outside the legitimate ends of the legal process, to wit: to cover up their illegal conduct.

57. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A FIFTH CAUSE OF ACTION
(Failure to Intervene under 42 U.S.C. § 1983 against the Individually Named Defendants)

58. Plaintiffs repeat, reiterate and reallege each and every allegation contained in

paragraphs numbered "1" through "57" with the same force and effect as if fully set forth herein.

59. Defendants had an affirmative duty to intervene on behalf of plaintiffs HORRELL BENNETT and NICHOLAS JONES, whose constitutional rights were being violated in their presence by other officers.

60. The defendants failed to intervene to prevent the unlawful conduct described herein.

61. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES were subjected to excessive force, their liberty was restricted for an extended period of time, and they were put in fear of their safety, humiliated, subjected to handcuffing, and imprisoned without probable cause.

62. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A SIXTH CAUSE OF ACTION
(Supervisory Liability under 42 U.S.C. § 1983 against Defendants Hameed Armani and Henry Daverin)

63. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "62" with the same force and effect as if fully set forth herein.

64. The supervisory defendants personally caused plaintiffs HORRELL BENNETT and NICHOLAS JONES'S constitutional injury by being deliberately or consciously indifferent to the rights of others in failing to properly supervise and train their subordinate employees.

65. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further

entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A SEVENTH CAUSE OF ACTION
(Municipal Liability under 42 U.S.C. § 1983 against Defendant City of New York)

66. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "65" with the same force and effect as if fully set forth herein.

67. Defendants, collectively and individually, while acting under color of state law, engaged in conduct that constituted a custom, usage, practice, procedure or rule of the respective municipality/authority, which is forbidden by the Constitution of the United States.

68. The aforementioned customs, policies, usages, practices, procedures and rules of the City of New York Police Department included, but were not limited to, using excessive force, disproportionately using excessive force and arresting individuals due to discrimination against them based on their race and/or nationality, using force and/or abusing authority in response to lawful remarks by civilians, and engaging in a practice of falsification.

69. In addition, the City of New York engaged in a policy, custom or practice of inadequate screening, hiring, retaining, training and supervising its employees that was the moving force behind the violation of plaintiffs HORRELL BENNETT and NICHOLAS JONES'S rights as described herein. As a result of the failure of the City of New York to properly recruit, screen, train, discipline, and supervise its officers, including the individual defendants, defendant CITY OF NEW YORK has tacitly authorized, ratified, and has been deliberately indifferent to, the acts and conduct complained of herein.

70. The foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York Police Department constituted deliberate indifference to the

safety, well-being and constitutional rights of plaintiffs HORRELL BENNETT and NICHOLAS JONES.

71. The foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department were the direct and proximate cause of the constitutional violations suffered by plaintiffs HORRELL BENNETT and NICHOLAS JONES as alleged herein.

72. The foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department were the moving force behind the Constitutional violations suffered by plaintiffs HORRELL BENNETT and NICHOLAS JONES as alleged herein.

73. As a result of the foregoing customs, policies, usages, practices, procedures and rules of the City of New York and the New York City Police Department, plaintiffs HORRELL BENNETT and NICHOLAS JONES were detained, subjected to excessive force, and imprisoned without probable cause.

74. Defendants, collectively and individually, while acting under color of state law, were directly and actively involved in violating plaintiffs HORRELL BENNETT and NICHOLAS JONES'S constitutional rights.

75. All of the foregoing acts by defendants deprived plaintiffs HORRELL BENNETT and NICHOLAS JONES of federally protected rights, including, but not limited to, the right:

A. Not to be deprived of liberty without due process of law;

B. To be free from the use of excessive force and/or the failure to intervene;

C. To be free from seizure and arrest not based upon probable cause;

D. To be free from malicious abuse of process; and

E. To be free from deprivation of their right to a fair trial.

As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

Supplemental State Law Claims

76. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "75" with the same force and effect as if fully set forth herein.

77. Within ninety (90) days after the claim herein accrued, plaintiffs duly served upon, presented to and filed with the CITY OF NEW YORK, a Notice of Claim setting forth all facts and information required under the General Municipal Law 50-e.

78. The CITY OF NEW YORK has wholly neglected or refused to make an adjustment or payment thereof and more then thirty (30) days have elapsed since the presentation of such claim as aforesaid.

79. This action was commenced within one (1) year and ninety (90) days after the cause of action herein accrued.

80. Plaintiffs have complied with all conditions precedent to maintaining the instant action.

81. This action falls within one or more of the exceptions as outlined in C.P.L.R. 1602.

AS AND FOR AN EIGHTH CAUSE OF ACTION
(False Arrest under the laws of the State of New York against All Defendants)

82. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in

paragraphs numbered "1" through "81" with the same force and effect as if fully set forth herein.

83. Defendants arrested plaintiffs without probable cause.

84. Plaintiffs were detained against their will for an extended period of time and subjected to physical restraints.

85. As a result of the aforementioned conduct, plaintiffs were unlawfully imprisoned in violation of the laws of the State of New York.

86. As a result of the aforementioned conduct, plaintiffs suffered physical and mental injury, together with embarrassment, humiliation, shock, fright, and loss of freedom.

87. The individually named defendants caused the wrongful arrests of plaintiffs. Defendant City, as employer of the each of the individually named defendant officers, is responsible for said officers' wrongdoing under the doctrine of *respondeat superior*.

88. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A NINTH CAUSE OF ACTION
(Assault under the laws of the State of New York against All Defendants)

89. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "88" with the same force and effect as if fully set forth herein.

90. As a result of the foregoing, plaintiffs were placed in apprehension of imminent harmful and offensive bodily contact.

91. As a result of defendants' conduct, plaintiffs have suffered physical pain and mental anguish, together with shock, fright, apprehension, embarrassment, and humiliation.

92. The individually named defendants assaulted plaintiffs. Defendant City, as employer of the each of the individually named defendant officers, is responsible for said officers' wrongdoing under the doctrine of *respondeat superior*.

93. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A TENTH CAUSE OF ACTION
(Battery under the laws of the State of New York against All Defendants)

94. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "93" with the same force and effect as if fully set forth herein.

95. Defendants made offensive contact with plaintiffs without privilege or consent.

96. As a result of defendants' conduct, plaintiffs have suffered physical injuries, pain and mental anguish, together with shock, fright, apprehension, embarrassment, and humiliation.

97. The individually named defendants battered plaintiffs. Defendant City, as employer of the each of the individually named defendant officers, is responsible for said officers' wrongdoing under the doctrine of *respondeat superior*.

98. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR AN ELEVENTH CAUSE OF ACTION
(Malicious Abuse of Process under laws of the State of New York against Defendants Elvisa Bektesevic and City of New York)

99. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs numbered "1" through "98" with the same force and effect as if fully set forth herein.

100. Defendant ELVISA BEKTESEVIC issued criminal process against plaintiffs HORRELL BENNETT and NICHOLAS JONES by causing them to be arrested, and requiring their appearances in Kings County Criminal Court.

101. Defendant ELVISA BEKTESEVIC compelled plaintiffs' appearances to obtain a collateral objective outside the legitimate ends of the legal process, to wit: to avoid discipline for herself and her fellow officers for their abuses of authority.

102. Defendant City, as employer of ELVISA BEKTESEVIC, is responsible for her wrongdoing under the doctrine of *respondeat superior.*

103. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorney's fees, costs and disbursements of this action

AS AND FOR A TWELFTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress under the laws of the State of New York against All Defendants)

104. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "103" with the same force and effect as if fully set forth herein.

105. The aforementioned conduct was extreme and outrageous, and exceeded all reasonable bounds of decency.

106. The aforementioned conduct was committed by defendants while acting within the scope of their employment by defendant CITY OF NEW YORK.

107. The aforementioned conduct was committed by defendants while acting in furtherance of their employment by defendant CITY OF NEW YORK.

108. The aforementioned conduct was intentional and for the sole purpose of causing severe emotional distress to plaintiffs.

109. As a result of the aforementioned conduct, plaintiffs suffered emotional distress, physical and mental injury, together with embarrassment, humiliation, shock, fright, and loss of freedom.

110. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A THIRTEENTH CAUSE OF ACTION
(Negligent Screening, Hiring, and Retention under the laws of the State of New York against Defendant City of New York)

111. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraph numbered "1" through "110" with the same force and effect as if fully set forth herein.

112. Upon information and belief, defendant CITY OF NEW YORK failed to use reasonable care in the screening, hiring and retention of the aforesaid defendants who conducted and participated in the arrest of plaintiffs.

113. Defendant CITY OF NEW YORK knew, or should have known in the exercise of reasonable care, the propensities of the individual defendants to engage in the wrongful conduct heretofore alleged in this Complaint.

114. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A FOURTEENTH CAUSE OF ACTION
(Negligent Training and Supervision under the laws of the State of New York against Defendant City of New York)

115. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "114" with the same force and effect as if fully set forth herein.

116. Upon information and belief the defendant CITY OF NEW YORK failed to use reasonable care in the training and supervision of the aforesaid defendants who conducted and participated in the acts of misconduct alleged herein.

117. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A FIFTEENTH CAUSE OF ACTION
(Negligence under the laws of the State of New York against All Defendants)

118. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "117" with the same force and effect as if fully set forth herein.

119. Plaintiffs' injuries herein were caused by the carelessness, recklessness and negligence of the defendant CITY OF NEW YORK and its employees and agents, who were on duty and acting in the scope of their employment when they engaged in the wrongful conduct

described herein.

120. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR A SEVENTEENTH CAUSE OF ACTION
(Violation of NYS Constitution Article 1 §11 against Defendant City of New York)

121. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "120" with the same force and effect as if fully set forth herein.

122. As a result of defendants' conduct, plaintiffs were deprived of their right to equal protection of laws.

123. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

AS AND FOR AN EIGHTEENTH CAUSE OF ACTION
(Violation of NYS Constitution against Defendant City of New York Article 1 §12)

124. Plaintiffs repeat, reiterate, and reallege each and every allegation contained in paragraphs numbered "1" through "123" with the same force and effect as if fully set forth herein.

125. As a result of defendants' conduct, plaintiffs were deprived of their right to security against unreasonable searches, seizures, and interceptions.

126. As a result of the foregoing, plaintiffs HORRELL BENNETT and NICHOLAS

JONES are entitled to compensatory damages in an amount to be fixed by a jury, and are further entitled to punitive damages against the individual defendants in an amount to be fixed by a jury, plus reasonable attorneys' fees, costs and disbursements of this action.

WHEREFORE, plaintiffs HORRELL BENNETT and NICHOLAS JONES demand judgment and pray for the following relief, jointly and severally, against the defendants:

(A) full and fair compensatory damages in an amount to be determined by a jury;

(B) punitive damages against the individual defendants in an amount to be determined by a jury;

(C) reasonable attorneys' fees and the costs and disbursements of this action; and

(D) such other and further relief as appears just and proper.

Dated: Brooklyn, New York
September 21, 2015

BRETT H. KLEIN, ESQ., PLLC
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(212) 335-0132

By: ____________________
BRETT H. KLEIN (BK4744)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
---X

HORRELL BENNETT and NICHOLAS JONES,

Plaintiffs,

Docket No.

-against-

CITY OF NEW YORK, HAMEED ARMANI, Individually, ELVISA BEKTESEVIC, Individually, TYLER MARSHALL, Individually, HENRY DAVERIN, Individually, MARK KOSAREK, Individually, SERGIO VARGAS, Individually, and JOHN and JANE DOE 1 through 10, Individually (the names John and Jane Doe being fictitious, as the true names are presently unknown),

Defendants.

---X

COMPLAINT

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